

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, : CASE NO. 1:18-cr-0043
:
Plaintiff, :
vs. : **JURY TRIAL, DAY 14**
:
YANJUN XU, also known as XU :
YANJUN, also known as QU HUI, : 5th of November, 2021
also known as ZHANG HUI, : 9:30 A.M.
:
Defendant. :

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE TIMOTHY S. BLACK, JUDGE

APPEARANCES:

For the Plaintiff:

Timothy S. Mangan, Esq.
Emily N. Glatfelter, Esq.
Assistant United States Attorneys
221 East Fourth Street, Suite 400
Cincinnati, Ohio 45202

For the Defendant:

Ralph William Kohnen, Esq.
Jeanne Marie Cors, Esq.
Sanna-Rae Taylor, Esq.
Taft Stettinius and Hollister
425 East Walnut Street, Suite 1800
Cincinnati, Ohio 45202

and

Robert K. McBride, Esq.
Taft Stettinius and Hollister
50 East RiverCenter Boulevard
Suite 850
Covington, Kentucky 41011

and

Florian Miedel, Esq.
Miedel & Mysliwiec, LLP
80 Broad Street, Suite 1900
New York, New York 10004

Also present:

Mae Harmon, Interpreter
Robin Murphy, Interpreter
Yanjun Xu, Defendant

1 Law Clerk: Cristina V. Frankian, Esq.
2 Courtroom Deputy: Rebecca Santoro
3 Stenographer: Lisa Conley Yungblut, RDR, RMR, CRR, CRC
4 United States District Court
5 100 East Fifth Street
6 Cincinnati, Ohio 45202
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 (Proceedings held in open court outside the presence of
2 the jury at 9:29 a.m.)

3 THE DEPUTY: All rise. This United States District
4 Court for the Southern District of Ohio is now in session,
5 the Honorable Timothy S. Black, District Judge, presiding.

6 THE COURT: Thank you. Please be seated. We're
7 back on the record in the *United States versus Xu*. Jury is
8 not here. Government team is here in full. Defense is here
9 in full, defendant and two interpreters.

10 Are we ready for the jury from the government's
11 perspective?

12 MR. MANGAN: Yes, Your Honor.

13 THE COURT: And the defense?

14 MR. KOHNEN: Yes, Your Honor.

15 THE COURT: Very well. Let's call for the jury,
16 please.

17 (Pause.)

18 THE DEPUTY: All rise for the jury.

19 (Jury entered the courtroom at 9:30 a.m.)

20 THE COURT: You may all be seated. Thank you. The
21 12 members of the jury have come to the courtroom. It's
22 9:30. Good morning. Dragged you all the way down here to
23 say good morning, count all 12 of you, send you back
24 upstairs to continue in your deliberations. We appreciate
25 what you're doing. We'll rise as you leave.

1 THE DEPUTY: All rise for the jury.

2 (Jury exited the courtroom at 9:32 a.m.)

3 THE COURT: Jury has left the room. We'll await
4 communication from the jury. Let's make sure we give it a
5 moment for the jury to get upstairs.

6 I'm prepared to recess. Anything further from the
7 government?

8 MR. MANGAN: No, Your Honor.

9 THE COURT: The defense?

10 MR. KOHNEN: No, thank you, Judge.

11 THE COURT: Very well. We're in recess until we
12 hear from the jury.

13 THE DEPUTY: This court is now in recess.

14 (Recess taken from 9:33 a.m. to 3:53 p.m.)

15 (Proceedings held in open court outside presence of the
16 jury at 3:53 p.m.)

17 THE DEPUTY: All rise. This court is in session
18 pursuant to the recess.

19 THE COURT: Thank you. Please be seated. We're in
20 the open courtroom back on the record in *United States*
21 *versus Xu*. Government's team is here in full. Defense team
22 is here in full. Defendant is here with the two
23 interpreters.

24 I'm advised that the jury has reached a verdict. I
25 would intend to call for them momentarily, place them in the

1 box, ask if there's a foreperson, ask the foreperson if he's
2 in possession of the four verdict forms. If they're signed
3 by all 12 jurors reflecting unanimity, I'll ask him to
4 deliver it to Ms. Santoro. I'll ask her to bring me the
5 verdict forms. I'll review the verdict forms, and then I
6 will present them by reading them.

7 At the time of presentation of the verdict, I'll ask
8 the parties and their lawyers to stand to receive the jury's
9 verdict. When the verdict is delivered, I order all persons
10 to remain quiet without outbursts of any kind. I'll then
11 ask the -- I will then poll the jurors and ask each one if
12 the verdicts read are in fact their verdicts.

13 Once I complete that, I will indicate that the jury has
14 spoken and the findings shall be rendered as a judgment. I
15 will then thank the jurors and excuse them. I'll indicate
16 that I'd like to come up to thank them personally. We have
17 a local rule that the attorneys are not to inquire of the
18 jurors in any way, and unless until that order is modified
19 by this judge, that's where we are.

20 Are we ready for the jury from the government's
21 perspective?

22 MR. MANGAN: Yes, Your Honor.

23 THE COURT: And the defense?

24 MR. KOHNEN: Yes, Your Honor.

25 THE COURT: Very well. Let's call for the jury.

1 (Pause.)

2 (Jury returned to the courtroom at 3:57 p.m.)

3 THE DEPUTY: All rise for the jury.

4 THE COURT: You may all be seated. Thank you. All
5 12 jurors are returned to the courtroom. Welcome back. I'm
6 advised that you have reached verdicts.

7 Is there a foreperson?

8 JUROR NO. 11: Yes, Your Honor.

9 THE COURT: Are you in possession of four verdict
10 forms each signed by all 12 jurors?

11 JUROR NO. 11: Yes.

12 THE COURT: Very well. Ms. Santoro, she'll
13 retrieve your jury forms from me -- from you, deliver them
14 to me. I'll review them briefly and I will announce the
15 verdicts.

16 (Pause.)

17 THE COURT: Verdict forms appear to be in order.
18 I'm prepared to deliver the verdict of the jury. If the
19 parties and their lawyers will stand to receive the verdict
20 of the jury.

21 As to Count I of the indictment charging conspiracy to
22 commit economic espionage in violation of law, we, the jury,
23 find the defendant guilty, signed by all 12.

24 As to Count II of the indictment charging conspiracy to
25 commit trade secret theft in violation of the law, we, the

1 jury, find the defendant guilty, signed by all 12 jurors.

2 As to Count III of the indictment charging attempt to
3 commit economic espionage in violation of federal law, we,
4 the jury, find the defendant guilty.

5 As to Count IV of the indictment charging attempt to
6 commit trade secret theft in violation of federal law, we,
7 the jury, find the defendant guilty.

8 The parties and counsel may be seated.

9 As required by law, I'm going to poll the jury
10 individually to be certain that this is in fact your verdict
11 as well as the verdict of your fellow jurors.

12 Is this your verdict, Juror No. 1?

13 JUROR NO. 1: Yes, Your Honor.

14 THE COURT: Juror No. 2, is this your verdict?

15 JUROR NO. 2: Yes, Your Honor.

16 THE COURT: Juror No. 3, is this your verdict?

17 JUROR NO. 3: Yes, Your Honor.

18 THE COURT: Juror No. 4, is this your verdict?

19 JUROR NO. 4: Yes, Your Honor.

20 THE COURT: Juror No. 5, is this your verdict?

21 JUROR NO. 5: Yes, Your Honor.

22 THE COURT: Juror No. 6, is this your verdict?

23 JUROR NO. 6: Yes, Your Honor.

24 THE COURT: Juror No. 7, is this your verdict?

25 JUROR NO. 7: Yes, Your Honor.

1 THE COURT: Juror No. 8, is this your verdict?

2 JUROR NO. 8: Yes, Your Honor.

3 THE COURT: Juror No. 9, is this your verdict?

4 JUROR NO. 9: Yes, Your Honor.

5 THE COURT: Juror No. 10, is this your verdict?

6 JUROR NO. 10: Yes, Your Honor.

7 THE COURT: Juror No. 11, Mr. Foreman, is this your
8 verdict?

9 JUROR NO. 11: Yes, Your Honor.

10 THE COURT: Juror No. 12, is this your verdict?

11 JUROR NO. 12: Yes, Your Honor.

12 THE COURT: Very well. The written verdicts of the
13 jury signed by -- all 12 have been signed and I have read
14 them into the record in the presence of the parties and the
15 lawyers. I've polled each of the 12 jurors and they
16 affirmed that these verdicts are theirs. The jury has
17 spoken: Guilty on all four counts.

18 Ladies and gentlemen of the jury, from the bottom of my
19 heart, on behalf of the Court, community, and the
20 participants, I want to thank you for your service. We
21 signed you up for a large period of your life. You agreed,
22 you came here. I watched you each and every day. You were
23 focused and many were taking notes, and you have clearly
24 worked hard and done your duty to deliberate.

25 I think I told you before, we live in a democracy where

1 there is not a king or a queen who decides criminal
2 liability. We ask 12 ordinary citizens to leave their lives
3 at home and come listen to the evidence and collectively
4 render verdicts, and you have done that. I want you to know
5 that what you did was extraordinarily important to democracy
6 and to the participants, particularly, but to the community
7 as a whole.

8 My admiration for each of you and for the work you have
9 done cannot fully be expressed; I've tried to do it.
10 Momentarily, I'm going to release you. I'm going to come up
11 to the jury room as soon as I can, within a few minutes; if
12 any of you are able to stay, I wish to express my
13 appreciation to you personally.

14 We have a local rule in this court that the parties and
15 the lawyers are not permitted to talk to the jurors after a
16 verdict so jurors aren't inundated with questions and
17 pressing questions. As long as I don't change that, which I
18 could, you'll be safe from inquiries. You're free to talk
19 now to anyone or to no one about the work you did and the
20 verdicts you found. You don't have to talk to people; you
21 can. I hope you'll tell your family members and your
22 neighbors and friends what you've been through and I hope
23 you'll tell them it was a worthwhile experience in a
24 laboratory of democracy.

25 But I'm going to ask the lawyers and parties not to

1 communicate with you. If they break my arm later and are
2 given leave to communicate with you, you don't have to talk
3 to them, just be polite, I don't wish to discuss it; or you
4 can discuss it as you choose. But let's not lose track of
5 the fact that you all acted with diligence and commitment,
6 which warms my heart and the community's heart. So on
7 behalf of the Court, the community, and the participants,
8 may God bless you.

9 Out of respect for you, we'll rise as you leave. I'll
10 be up momentarily if you're able to stay. If you're unable
11 to stay, flat out don't want to, I will not be offended.
12 Out of respect for you, we'll rise as you leave.

13 THE DEPUTY: All rise for the jury.

14 (Jury exited the courtroom at 4:06 p.m.)

15 THE COURT: Jury has left the room and the door is
16 closing. You may be seated. The jury has spoken.

17 Is there anything that requires the judge's attention
18 before we adjourn fully, from the government?

19 MR. MANGAN: Your Honor, initially, we would ask
20 that the defendant remain detained pending sentencing.

21 THE COURT: Very well.

22 Does the defense have anything for the Court at this
23 time?

24 MR. KOHNEN: Nothing, Your Honor, other than to
25 thank you for your professionalism and your courtesies. We

1 appreciate that very much. Thank you.

2 THE COURT: That's a sweet statement, Mr. Kohnen,
3 and you're welcome.

4 The order -- the defendant shall be remanded to the
5 custody of the US Marshal pending sentencing.

6 I order the preparation of a written presentence
7 report. An officer of the Court will come to interview the
8 defendant. Counsel may be present. You may participate or
9 not. Preparation of the report is designed to assist me; if
10 it assists me, it assists him, so I hope he will participate
11 fully.

12 But with that, I believe we have concluded this, and I
13 want to say something seriously. I have seldom, if ever,
14 been impressed by as many lawyers as I was impressed by in
15 this case. This was a hard case, duly contested. Everyone
16 was professional and everyone served with excellence. If
17 you want a full-blown personal review, I'll do that off the
18 record another time, but you made me proud to be a lawyer.
19 And with that, out of respect, I will rise and indicate that
20 we are adjourned.

21 THE DEPUTY: This court is now adjourned.

22 (Proceedings concluded at 4:08 p.m.)

23 * * *

24

25

C E R T I F I C A T E

In accordance with 28 U.S.C. Section 753, I certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter prepared from my stenotype notes and that the transcript page format is in accordance with the regulations of the Judicial Conference of the United States.

Lisa Conley Yungblut 01/10/2022
LISA CONLEY YUNGBLUT, RDR, RMR, CRR, CRC DATE